

89TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } No. 31

HAZARDOUS DUTY PAY

FEBRUARY 9, 1965.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MURRAY, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 1535]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 1535) to amend the Classification Act of 1949 to authorize the establishment of hazardous duty pay in certain cases, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

STATEMENT

PURPOSE

The purpose of this legislation is to correct an inequity and to close a gap in existing law which discriminates against employees covered by the Classification Act of 1949, as amended, with regard to hazardous duty pay.

BACKGROUND

H.R. 1535 is identical to H.R. 2079 of the 87th Congress which passed the House on the Consent Calendar on September 4, 1962, and it is also identical to H.R. 1159 of the 88th Congress which passed the House on the Consent Calendar on April 22, 1963. The administration recommends the enactment of H.R. 1535.

EXPLANATION

Existing law permits the payment to certain categories of Federal employees of pay differentials or premium compensation for periods of work which they are required to perform under unusually hazardous conditions. These employees include a number employed by the Public Health Service, certain military personnel, and wage board

personnel of various departments and agencies. For example, wage board employees of the Departments of the Army and the Air Force are paid up to twice their basic hourly rate for work performed at heights of 100 feet without the benefit of scaffolding or other adequate safety measures.

Extra compensation may be provided Classification Act employees through the regular position classification process when the unusual physical hardship or hazard is inherent in the position, when it regularly recurs, and when it is performed for a substantial part of the working time. However, there does not now exist for Classification Act employees any means of providing adequate compensation for this purpose where the unusual hardship or hazard occurs at such irregular or intermittent intervals that it does not constitute a regular part of the job for position classification purposes. Yet it is only fair and logical that the Government offer some additional remuneration to the employee asked, in the course of performing assigned duties, to take unusual risks not normally associated with his regular job and for which premium compensation is not otherwise provided.

H.R. 1535 will correct this inequity. The proposal authorizes the U.S. Civil Service Commission to establish a schedule of pay differentials for Classification Act employees for irregular or intermittent duty involving unusual physical hardship or hazard. The differentials will be paid to the employees for any period in which they are subjected to physical hardship or hazard not usually involved in carrying out the duties of their positions.

The legislation limits the application of hazardous duty pay so that the differential (1) shall not be applicable when the physical hardship or hazard was taken into account in classifying the employee's position, (2) shall not exceed 25 percent of the employee's basic compensation, and (3) shall be paid only under standard regulations to be prescribed by the Civil Service Commission. Coverage of the hazardous duty principle is also limited by the requirement that the hardships and hazards to which there is exposure be of an "unusual" nature.

In addition to correcting inequities in pay treatment among the various groups of Federal employees, this legislation will serve as an incentive to employees to accept such irregular or intermittent assignments involving hazardous duties and it will afford a measure of recognition and appreciation for the employees' willingness to perform the regular duties of their positions under conditions of unusual physical hardship or hazard.

HEARINGS

Hearings were held on this legislation in both the 87th and 88th Congresses. The measure was fully endorsed by the Chairman of the Civil Service Commission and by representatives of employee organizations. There was no adverse testimony received from any source.

COST

The cost involved in this legislation would depend on the extent to which classified workers are assigned to unusual hazardous or hardship duty, the length of such assignments, and the basic pay rates of the employees. It is estimated that the cost would be less than \$100,000 annually.

EXECUTIVE REPORTS

The favorable reports of the U.S. Civil Service Commission and the Bureau of the Budget follow:

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., March 18, 1963.

Hon. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, Room 213, House Office Building.*

DEAR MR. CHAIRMAN: This is in further response to the committee's request of January 23, 1963, for the Civil Service Commission's views with respect to H.R. 1159, a bill to amend the Classification Act of 1949 to authorize the establishment of hazardous duty pay in certain cases.

This bill would authorize the payment, subject to regulations to be prescribed by the Commission, of pay differentials not to exceed 25 percent of basic compensation, to Classification Act employees performing irregular or intermittent duties involving unusual physical hardship or hazard. The differential would be paid only during the period the employee is subjected to physical hardship or hazard not usually involved in carrying out the duties of his position. It would not apply where the classification of the employee's position takes into account the degree of physical hardship or hazard involved.

The Commission favors enactment of H.R. 1159.

The question of whether or not Classification Act employees should be paid additional or premium compensation for performing duties involving unusual physical hardships and hazards has been a subject of discussion for a long time. Such differentials are paid to some categories of military personnel and Public Health Service personnel, among others. Hazard pay also is authorized under wage board pay systems of some agencies. The conditions under which separate hazard pay is authorized for wage board employees in the Army and Air Force are very similar to those prescribed in the proposed bill. That is, such premiums are paid for irregular or intermittent performance of duties under unusually arduous or hazardous circumstances which have not been considered in the evaluation of the job. The Department of the Navy authorizes a differential of 50 percent for flying in connection with testing aircraft or apparatus or appliances on aircraft. The Army-Air Force Wage Board has authorized hazard differentials at twice the basic hourly rate for work performed at a height of 100 feet and above under hazardous conditions caused by the absence of scaffolding guards or other suitable protective measures or facilities. Both the Department of the Navy and the Army-Air Force Wage Board authorize premium payments for a number of other hazardous situations. The Army-Air Force Wage Board policy requires that hazard payments be made in increments of 15 minutes with a 1-hour minimum payment for any day in which the hazardous work is performed.

We believe that unusual physical hardships or hazards which are inherent in a position, which regularly recur, and which are performed for a substantial part of the working time are best compensated for through the regular position classification process. However, there does not now exist a means for providing such compensation where

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conditions at such irregular or intermittent intervals that these conditions cannot be taken into consideration for position classification purposes. Yet it seems logical that the Government offer some additional remuneration to the employee asked to take unusual risks not normally associated with his occupation and for which added compensation is not otherwise provided.

The proposed legislation would fill this void. At the same time it would avoid many of the problems normally associated with hazard pay proposals by restricting coverage to the most deserving cases, and by limiting payments to periods of actual exposure not taken into consideration in the classification of the position. This would preclude the possibility of double payment through both job classification and separate premium pay which otherwise might occur. Since the premium would be paid only on an irregular basis, it would not lose its identity as a separate payment, thus forestalling problems often associated with moving employees from premium compensation positions to regular rate positions.

We would visualize assignments such as those requiring irregular or intermittent participation in hurricane weather flights, participation in test flights of aircraft during their developmental period or after modification, participation in trial runs of newly built submarines or in submerged voyages of an exploratory nature such as those under the polar icefields, and performance of work at extreme heights under adverse conditions, as among those meeting the criteria of unusual physical hardship or hazard. We recognize that in most regularly recurring hazardous work situations safety training and precautions have been developed which so greatly reduce the possibility of accident that the degree of hazard becomes negligible. The examples cited above, however, go beyond such conditions. They take into consideration, for example, such matters as the need to deliberately operate equipment such as newly developed or modified aircraft beyond its known design capabilities or safe operating limits, and exposure to elements or conditions over which little or no control can be exercised. Normally, few accidents occur in these hazardous situations; nevertheless, such assignments always are accompanied by the undeniable awareness of the inherent danger of the activity and the knowledge that an accident, should it occur, would almost certainly be fatal.

The total cost of premium payments under this bill probably would be relatively low. Nevertheless, in individual situations they would serve as inducements to attract personnel for special tasks involving unusual hardships or hazards. The differential would not eliminate all pay inequities among Classification Act and wage-board employees working under similar conditions of hardship or hazard; however, it would largely reduce the amount of the difference which normally favors the wage-board employee. The monetary payment represented by the premium would, of course, be of immediate benefit to the employee. The Government can expect to benefit, too, however, as a result of improved employee morale, which undoubtedly would attend this formal recognition of the performance of unusually hazardous work.

We do not think it feasible to establish such a program and have it operating satisfactorily within a period of 90 days after enactment as he given to amending section 2 of the bill to read as follows:

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"Sec. 2. The amendment made by the first section of this Act shall become effective on the first day of the first pay period which begins more than 180 days after the date of enactment of this Act."

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission.

Sincerely yours,

(Signed) JOHN W. MACY, Jr., Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., March 19, 1963.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service, House of Representatives, 213-215 Old House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to the committee's requests for views of the Bureau of the Budget concerning H.R. 1159 and H.R. 2478, similar bills, to amend the Classification Act of 1949 to authorize the establishment of hazardous duty pay in certain cases.

Both bills would require the Civil Service Commission to establish schedules of pay differentials (not to exceed 25 percent of basic compensation) to be paid to an employee subject to the Classification Act for any period in which he is subjected to physical hardship or hazard not usually involved in carrying out the duties of his position, H.R. 1159 with the added requirement that the hazard or hardship itself be of an "unusual" nature. Under both bills such differential is not to be payable to any employee whose position classification has taken account of the degree of physical hardship or hazard involved in his position.

The Chairman of the Civil Service Commission in his reports on these bills states that he is opposed to H.R. 2478 in view of its much broader coverage. The Chairman points out that, unlike H.R. 1159, which is restricted to "unusual" hardship or hazard, H.R. 2478 would apply to any hazard or hardship not regularly encountered, with consequent greater cost and difficulty of administration.

The Bureau of the Budget concurs in the views expressed by the Civil Service Commission and accordingly would not object to enactment of H.R. 1159, but for reasons stated above cannot support the provisions of H.R. 2478 and recommends against its favorable consideration by the committee.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., February 1, 1965.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives,
Room 213, Cannon House Office Building.

DEAR MR. CHAIRMAN: This is in further response to the committee's request of January 11, 1965, for the Civil Service Commission's

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Act of 1949 to authorize the establishment of hazardous duty pay in certain cases.

The bill would authorize the payment, subject to regulations to be prescribed by the Commission, of pay differentials not to exceed 25 percent of basic compensation, to Classification Act employees performing irregular or intermittent duties involving unusual physical hardship or hazard. The differential would be paid only during the period the employee is subjected to physical hardship or hazard not usually involved in carrying out the duties of his position. It would not apply where the classification of the employee's position takes into account the degree of physical hardship or hazard involved.

The Commission favors enactment of H.R. 1535 but recommends a clarifying amendment as described later in this report.

The question of whether or not Classification Act employees should be paid additional or premium compensation for performing duties involving unusual physical hardships and hazards has been a subject of discussion for a long time. Such differentials are paid to some categories of military personnel and Public Health Service personnel, among others. Hazard pay also is authorized under wage board pay systems of some agencies. The conditions under which separate hazard pay is authorized for wage board employees in the Army and Air Force are very similar to those prescribed in the proposed bill. That is, such premiums are paid for irregular or intermittent performance of duties under unusually arduous or hazardous circumstances which have not been considered in the evaluation of the job. The Department of the Navy authorizes a differential of 50 percent for flying in connection with testing aircraft or apparatus or appliances on aircraft. The Army-Air Force Wage Board has authorized hazard differentials at twice the basic hourly rate for work performed at a height of 100 feet and above under hazardous conditions caused by the absence of scaffolding guards or other suitable protective measures or facilities. Both the Department of the Navy and the Army-Air Force Wage Board authorize premium payments for a number of other hazardous situations. The Army-Air Force Wage Board policy requires that hazard payments be made in increments of 15 minutes with a 1-hour minimum payment for any day in which the hazardous work is performed.

We believe that unusual physical hardships or hazards which are inherent in a position, which regularly recur, and which are performed for a substantial part of the working time, are best compensated for through the regular position classification process. However, there does not now exist a means for providing such compensation where regularly assigned duties are performed under unusually hazardous conditions at such irregular or intermittent intervals that these conditions cannot be taken into consideration for position classification purposes. Yet it seems logical that the Government offer some additional remuneration to the employee asked to take unusual risks not normally associated with his occupation and for which added compensation is not otherwise provided.

H.R. 1535, as we propose that it be amended, would fill this void. At the same time it would avoid many of the problems normally associated with hazard pay proposals by restricting coverage to the most deserving cases and by limiting payments to periods of exposure not

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would preclude the possibility of double payment through both job classification and separate premium pay which otherwise might occur. Since the premium would be paid only on an irregular basis, it would not lose its identity as a separate payment, thus forestalling problems often associated with moving employees from premium compensation positions to regular rate positions.

We would visualize assignments such as those requiring irregular or intermittent participation in hurricane weather flights, participation in test flights of aircraft during their developmental period or after modification, participation in trial runs of newly built submarines or in submerged voyages of an exploratory nature such as those under the polar icefields, and performance of work at extreme heights under adverse conditions, as among those meeting the criteria of unusual physical hardship or hazard. We recognize that in most regularly recurring hazardous work situations safety training and precautions have been developed which so greatly reduce the possibility of accident that the degree of hazard becomes negligible. The examples cited above, however, go beyond such conditions. They take into consideration, for example, such matters as the need to deliberately operate equipment such as newly developed or modified aircraft beyond its known design capabilities or safe operating limits, and exposure to elements or conditions over which little or no control can be exercised. Normally, few accidents occur in these hazardous situations; nevertheless, such assignments always are accompanied by the undeniable awareness of the inherent danger of the activity and the knowledge that an accident, should it occur, would almost certainly be fatal.

The total cost of premium payments under this bill probably would be relatively low. Nevertheless, in individual situations they would serve as inducements to attract personnel for special tasks involving unusual hardships or hazards. The differential would not eliminate all pay inequities among Classification Act and wage board employees working under similar conditions of hardship or hazard; however, it would largely reduce the amount of the difference which normally favors the wage board employee. The monetary payment represented by the premium would, of course, be of immediate benefit to the employee. The Government could expect to benefit, too, however, as a result of improved employee morale, which undoubtedly would attend this formal recognition of the performance of unusually hazardous work.

Questions have been raised both during earlier hearings on similar bills, and informally to the Commission by a number of agencies, concerning the authority of the Commission to establish by regulation minimum periods, extending beyond the actual period of each exposure, during which the differentials would be paid. The fact that these questions have been raised indicates the desirability of clarifying this point. Accordingly, we recommend that the bill be amended to delete the word "and" at the end of paragraph (2) of section 1 (line 10, p. 2); to renumber paragraph (3) of section 1 (line 11, p. 2) as paragraph (4); and to insert a new paragraph (3) as follows:

"(3) Shall be paid for such minimum periods as the Commission may determine to be appropriate; and".

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The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission.
Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE VIII OF THE CLASSIFICATION ACT OF 1949

TITLE VIII—GENERAL COMPENSATION RULES

SEC. 801. All new appointments shall be made at the minimum rate of the appropriate grade, except that in accordance with regulations prescribed by the Commission which provide for such considerations as the candidate's existing salary, unusually high or unique qualifications, or a special need of the Government for his services, the head of any department may, with the approval of the Commission in each specific case, appoint individuals to positions in grade 13 and above of the General Schedule at such rate or rates above the minimum rate of the appropriate grade as the Commission may authorize for this purpose. The approval of the Commission in each specific case shall not be required with respect to appointments made by the Librarian of Congress.

SEC. 802. (a) The rate of basic compensation to be received by any officer or employee to whom this Act applies shall be governed by regulations issued by the Commission in conformity with this Act when—

- (1) he is transferred from a position in the legislative, judicial, or executive branch to which this Act does not apply;
- (2) he is transferred from any position in the legislative, judicial, or executive branch to which this Act applies to another such position;
- (3) he is demoted to a position in a lower grade;
- (4) he is reinstated, reappointed, or reemployed in any position subject to this Act following service in any position in the legislative, judicial, or executive branch;
- (5) his type of appointment is changed;
- (6) his employment status is otherwise changed; or
- (7) his position is changed from one grade to another grade.

(b) Any officer or employee who is promoted or transferred to a position in a higher grade shall receive basic compensation at the lowest rate of such higher grade which exceeds his existing rate of basic compensation by not less than two step-increases of the grade from which he is promoted or transferred. If, in the case of any officer or employee so promoted or transferred who is receiving basic compensation at a rate in excess of the maximum rate for his grade under any provision of law, there is no rate in such higher grade which is at least two step-increases above his existing rate of basic compensation, he shall receive basic compensation at the maximum rate of such higher grade.

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grade, or (2) his existing rate of basic compensation, if such existing rate is the higher. In case any such officer or employee so promoted or transferred is receiving basic compensation at a rate saved to him under section 507 of this Act upon reduction in grade, such officer or employee shall receive (A) basic compensation at a rate two steps above the rate which he would be receiving if such section 507 were not applicable in his case, or (B) his existing rate of basic compensation, if such existing rate is the higher.

(c) Any employee in the legislative branch whose compensation is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives, and who has completed two or more years of service as such an employee, and any Member of the Senate or House of Representatives who has completed two or more years of service as such a Member, may upon appointment to a position subject to the Classification Act of 1949 have his initial rate of compensation fixed at the minimum rate of the appropriate grade, or at any step of such grade that does not exceed the highest previous rate of compensation received by him during such service in the legislative branch.

(d) The Commission may issue regulations governing the retention of the rate of basic compensation of an employee who together with his position is brought under this Act. If any such employee so entitled to receive a retained rate under regulations issued pursuant to this subsection is later demoted to a position under this Act, his rate of basic compensation shall be determined in accordance with section 507 of this Act, except that service in the position which was brought under the Act shall, for purposes of section 507, be considered as service under this Act.

SEC. 803. Each employee in a position under this Act, who regularly has responsibility for supervision (including supervision over the technical aspects of the work concerned) over employees whose compensation is fixed and adjusted from time to time by wage boards or similar administrative authorities as nearly as is consistent with the public interest in accordance with prevailing rates, may, in accordance with regulations issued by the Commission, be paid at one of the scheduled rates for his grade which is above the highest rate of basic compensation being paid to any such prevailing-rate employee regularly supervised, or at the maximum rate for his grade, as provided for in such regulations.

SEC. 804. *The Commission shall establish a schedule or schedules of pay differentials for irregular or intermittent duty involving unusual physical hardship or hazard. The appropriate differential shall be paid to any officer or employee to whom this Act applies for any period in which such officer or employee is subjected to physical hardship or hazard not usually involved in carrying out the duties of his position. Such pay differential—*

(1) shall not be applicable with respect to any officer or employee in any position the classification of which takes into account the degree of physical hardship or hazard involved in the performance of the duties thereof;

(2) shall not exceed an amount equal to 25 per centum of the rate of basic compensation applicable with respect to such officer or employee;

(3) shall be paid under regulations which shall be prescribed by the Commission.